

REGULATION 4

APPLICATIONS: PROCEDURE

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4.001 [Reserved. 12/82.]

4.010 Application general.

1. It is declared policy of Nevada that all establishments, where gambling games are conducted or operated, are licensed and controlled so as to better protect the public health, safety, morals, good order and welfare of inhabitants and to preserve the competitive economy and the policies of free competition of the State of Nevada. Any gaming license which is issued, or registration, or finding of suitability, or approval by the commission shall be deemed to be a revocable privilege and no person holding such a license or registration, or finding of suitability, or approval by the commission is deemed to have acquired any vested rights therein.

2. An application for a state gaming license is seeking the granting of a privilege, and the burden of proving his qualification to receive any license is at all times on the applicant. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action or financial loss which may result from action with respect to an application and expressly waive any claim for damages as a result thereof.

3. An application for a license, determination of suitability, or registration, besides any other factor attaching to such an application by virtue of the Nevada Gaming Control Act and the regulations thereunder, shall constitute a request to the board and commission for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in, or be associated with, the gaming industry in the manner or position sought by the application, or the manner or position generally similar thereto; and, by filing an application with the board, the applicant specifically consents to the making of such a decision by the board and commission at their election when the application, after filing, becomes moot for any reason other than death.

(Amended: 6/67; 4/73; 9/73.)

4.020 Waiver of privilege. An applicant may claim any privilege afforded by the Constitution of the United States, or of the State of Nevada, in refusing to answer questions by the board and the commission. However, a claim of privilege with respect to any testimony or evidence pertaining to an application may constitute sufficient grounds for denial.

(Amended: 6/67.)

4.030 Classification of licenses, and other commission actions for which applications must be made.

1. Gaming licenses.

(a) Restricted license. One which permits the operation of slot machines only in an establishment wherein the operation of machines is incidental to the primary business of the licensee. Fifteen (15) machines is the maximum number of machines which may be operated under this type of license. Any restricted licensee at more than two locations may be required to apply for and obtain an operator of a slot machine route license.

(b) Nonrestricted license. Any license other than a restricted license. The term includes:

(1) Operator of a slot machine route license. A nonrestricted license which authorizes the holder to place slot machines in a licensed location and share in the profits therefrom without being on the license issued for the location. An operator's license will normally be issued only to an applicant already licensed at three locations or having firm commitments to place machines at three licensed locations upon licensing.

(2) Operator of an inter-casino linked system license. A nonrestricted license which authorizes the holder to place and operate an inter-casino linked system on the premises of two or more licensed locations, and to share in the revenue therefrom, without being on the licenses issued for the locations. Licensure is not required if a gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee, or if an operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

2. Manufacturer's license. One which authorizes the holder to manufacture, assemble or produce any device, equipment, material or machines used in gambling, except pinball machines, in the State of Nevada in accordance with Regulation 14.

3. Distributor's license. One which authorizes the holder to sell, distribute or market any gambling device, machine or equipment in the State of Nevada in accordance with Regulation 14.

4. Disseminator's license. One which authorizes the holder to furnish an operator of a race book, sports pool or gambling game who is licensed in this state with information relating to horse racing or other racing which is used to determine winners of or payoffs on wagers accepted by the operator. The term does not include a person who provides a televised broadcast without charge to any person who receives the broadcast.

5. Pari-mutuel systems operator's license. One which authorized the holder to engage in the providing of an off-track pari-mutuel system.

6. Registration. Commission action authorizes a corporation to be a holding company with respect to a corporation which holds or applies for a state gaming license.

7. Findings of suitability. The Nevada Gaming Control Act and regulations thereunder require or permit the commission to require that certain persons, directly or indirectly involved with licensees, be found suitable to hold a gaming license so long as that involvement continues. A finding of suitability relates only to the specified involvement for which it was made. If the nature of the involvement changes from that for which the applicant is found suitable, he may be required to submit himself to a determination by the commission of his suitability in the new capacity.

8. Approvals. The Nevada Gaming Control Act and the regulations thereunder do or may require commission approval for certain acts of licensees or transactions directly or indirectly involving licensees. Such approvals by themselves do not constitute the licensing or a finding of suitability of any person involved, but the licensing or finding suitable of the persons involved may, unless circumstances indicate otherwise, constitute approval by the commission of the transaction in question.

(Amended: 6/67; 9/73; 5/00.)

4.040 Applications, notices, statements and reports; contents; amendments; incorporation by reference; proceedings not to have substantive implications.

1. Every application, statement, notice or report must be filed on forms furnished or approved by the board or the commission and must contain and be accompanied and supplemented by such documents and information as may be specified or required. Failure to supply the information requested within 5 days after the request has been received by the applicant constitutes grounds for delaying consideration of the application.

2. It is grounds for denial of an application or disciplinary action for any person to make any untrue statement of material fact in any application, notice, statement or report filed with the board or commission in compliance with the provisions of law and regulations referred to in paragraph 1, or willfully to omit to state in any such application, notice, statement or report any material fact which is required to be stated therein or omit to state a material fact necessary to make the facts stated in view of the circumstances under which they were stated, not misleading.

3. All information required to be included in an application must be true and complete as of the dates of the board and commission action sought by such application; and an applicant shall promptly supply by amendment prior to such date any information based on facts occurring after

the original application so as to make such information not misleading as of the dates of such action by the board and the commission.

4. An application may be amended in any respect by leave of the board at any time prior to final action thereon by the commission. Any amendment to an application shall have the effect of establishing the date of such amendment as the new filing date of such application with respect to the time requirements for action on such application.

5. An amendment to an application filed after the date on which the commission has taken the action sought by such application, if such amendment is approved by the commission, shall become effective on such date as the commission may determine, having due regard to the public interest.

6. Any document filed under any of the provisions of the Act or regulations may be incorporated by reference in a subsequent application if it is available in the files of the board or the commission, to the extent that the document is currently accurate.

7. Neither the fact that an application seeking approval with respect to a transaction involving securities has been filed, nor the fact that such approval has been granted, constitutes a finding by the board or the commission that any document filed in connection therewith is true, complete, or not misleading, or shall mean that the board or the commission has passed in any way upon the merits or qualifications of, or recommended, any person, security or transaction. It is grounds for denial of an application or disciplinary action to make or cause to be made to any prospective purchaser any representation inconsistent with the foregoing.

(Amended: 6/67; 9/73; 12/82; 11/90.)

4.050 Separate applications for each establishment. Except as provided in Regulation 4.060, a separate application is required for each establishment for which a gaming license is sought, irrespective of the ownership of such establishment, as defined in NRS 463.0169.

(Formerly Sec. 4.070. Amended: 8/61; 6/67; 9/73; 12/82.)

4.060 Exception, slot machine operator. Notwithstanding the provisions of Regulation 4.050, a license may be issued to an applicant as a slot machine operator after the applicant has been licensed for three locations or has firm commitments to place machines at three licensed locations. An applicant for such a license shall file a single application showing the name and address of each lessee, the number of machines to be maintained at each location and such other information as may be required by the board or the commission. This regulation does not alter or negate the requirement that each location of such operator must also be separately licensed.

(Formerly Sec. 4.080. Amended: 6/67; 9/73; 12/82.)

4.070 Application and investigative fees.

1. Except as otherwise provided herein, all fees and costs incurred in conjunction with the investigation of any application to the board or commission must be paid by the applicant in the manner prescribed by this regulation.

2. Each application for a restricted license must be accompanied by a nonrefundable application fee in the amount of \$150.00 for each individual requiring investigation. Each application for an additional location for a slot route operator must be accompanied by a nonrefundable application fee in the amount of \$150.00.

3. All other applications except a finding of suitability pursuant to NRS 463.167(2)(a), must be accompanied by a nonrefundable application fee in the amount of \$500.00 for each person requiring investigation.

4. An applicant for a finding of suitability pursuant to NRS 463.167(2)(a) is not required to pay any fees or costs under this regulation.

5. In addition to any nonrefundable application fees paid, the board may require an applicant to pay such supplementary investigative fees and costs as may be determined by the board. The board may estimate the supplementary investigative fees and costs and require a deposit to be paid by the applicant in advance as a condition precedent to beginning or continuing an investigation.

6. The board and commission will not take final action to approve any application unless all application and investigative fees and costs have been paid in full. The board may recommend denial and the commission may deny the application if the applicant has failed or refused to pay all application and investigative fees and costs.

7. After all supplementary investigative fees and costs have been paid by an applicant, the board shall refund to the person who made the required deposit any balance remaining in the investigative account of the applicant.

8. Upon final action on the application, the board shall give to the applicant an itemized accounting of the investigative fees and costs incurred.

9. The board may, in its discretion, waive payment of an investigative fee or cost.
(Formerly Sec. 4.090. Amended: 6/67; 9/73; 7/78; 12/82; 6/85.)

4.080 Time applicable to commission action.

1. If an act or involvement approved by the commission has not occurred or begun within 6 months after the commission votes on the application, the commission's action is void, and a new application must be made.

2. Subsection 1 does not apply to applications for approval of public offerings or private placements governed by Regulations 15 or 16, or to applications governed by Regulation 4.105.

3. The commission may waive the provisions of subsection 1. Applications for waivers must be made to the board, which shall make a recommendation thereon to the commission.

(Formerly Sec. 4.100. Amended: 6/67; 9/73; 10/81; 12/82; 5/87; 10/94.)

4.090 Diagram, photographs and description of primary business required by applicant for restricted license.

1. Upon application for a restricted gaming license, an applicant must submit with the application a clear and legible diagram, together with photographs of the interior of the business if available and a meaningful narrative written description of the primary business. The diagram must be representative, proportional, including specific reference to the size of the premises through the use of detailed measurements. The diagram must depict the number of slot machines to be exposed for play and their location within the establishment in a manner which must provide adequate supervision of each slot machine and which must depict:

(a) An unobstructed view of each slot machine from the point of supervision;

(b) Any mirrors necessary to maintain adequate supervision; and

(c) The location of any recreational, nongaming arcade or amusement games or devices at an establishment where there is access to persons under the age of 21. Such location must be sufficiently separated from any slot machines to deter loitering near the gaming area by persons under the age of 21.

(d) Location of automated teller machines or "ATMs."

2. A restricted licensee shall maintain adequate supervision of all slot machines and shall not increase the number of slot machines or change the location of any slot machine without board administrative approval except as herein provided.

3. Requests for administrative approval of an increase in the number of slot machines or a change in the location of any slot machine shall be accompanied by a diagram depicting the location of the slot machines within the establishment. If the board does not give notice of disapproval of the proposed increase in the number of slot machines or change in location within 15 working days after receipt of the licensee's written request for approval, it shall be deemed approved.

4. Subject to subsequent board objection, the following changes of locations of slot machines may be done after submission of an amended diagram to the board reflecting such changes, but before completion of the 15 working day review period provided in the preceding section:

(a) Changes of locations approved by the chairman or his designee;

(b) Exchanges of stand-up slot machines to bar-top slot machines;

(c) Exchanges of slot machines from buddy-bar locations to main-bar locations;

(d) Changes of locations at restricted gaming establishments that have supervision by full-time change personnel; or

(e) Reduction of the number of slot machines at a location.

5. Unresolved objections may be appealed to the commission pursuant to Regulation 4.185.

(Adopted: 1/91. Amended: 7/99. Effective: 2/1/2000.)

4.105 Preliminary determination of a location's suitability for the conduct of gaming.

1. With the written consent of the owner, any person interested in purchasing any existing establishment or constructing a new gaming establishment may seek a preliminary determination of the location's suitability for the conduct of gaming by filing an application with the board. The application shall be submitted on forms designated by the board and must include all information required by the board concerning the location's suitability for the conduct of gaming, and a detailed description of the existing or proposed gaming operation. The application must be accompanied by a nonrefundable application fee in the amount of \$500.00. In addition, the board may require payment of investigative fees and costs as may be determined by the board. The board and commission need not take any action on the application unless all fees and costs have been paid in full.

2. An application under this section is an extraordinary remedy that will be considered by the board and commission only in unusual circumstances. The application shall include a statement explaining the circumstances that justify a preliminary determination of suitability of a location.

3. Concurrently with filing an application under this section, the applicant shall give notice of the application to the city or county having jurisdiction over the location. The application shall include a certification that such notice was provided.

4. Acting upon the recommendation of the board, the commission may make a preliminary determination that the subject location is either suitable or unsuitable for the conduct of gaming pursuant to NRS 463.1405 and NGC Regulation 3.010. The commission's determination will be based upon the facts and circumstances known at the time and may be limited or conditioned in any manner deemed reasonable by the commission. The commission's determination is solely limited to the issue of the location's suitability and shall not constitute actual or implied approval of any application for a gaming license or finding of suitability of any persons.

5. Unless otherwise limited or conditioned by the commission, a preliminary finding of suitability pursuant to this section shall expire if a completed application for licensing is not submitted to the board within 12 months of the date of the commission's determination unless extended by the commission upon application to and recommendation of the board.

6. A preliminary determination of suitability pursuant to this regulation may not be sold, assigned, transferred or disposed of in any manner.

(Adopted: 12/90.)

4.110 Limit to number financially interested. The board with consent of the commission may, whenever it deems the public interest to so require in any particular case, limit the number of individuals who may be named in any initial application for a license or in any application to add new parties to or for approval of new interests under an existing license.

(Amended: 2/60; 6/67.)

4.120 Summoning of applicants. The board or the commission may summon any person named in an application to appear and testify before it or its agents at such time and place as it may designate. All such testimony may be under oath and embrace any matter which the commission, the board, or its agents may deem relevant to the application. Failure to so appear and testify fully at the time and place designated, unless excused, constitutes grounds for denial of the application without further consideration by the board or the commission.

(Amended: 6/67; 12/82.)

4.130 Reserved. (12/82.)

4.140 Withdrawal of application.

1. A request for withdrawal of an application may be made at any time prior to final action upon the application by the board by filing a written request to withdraw with the board. Final action by the board upon an application occurs when the board adopts its recommendation to the commission concerning the application.

2. The board may, in its discretion, deny the request, or grant the request with or without prejudice.

3. If a request for withdrawal is granted with prejudice, the applicant is not eligible to apply again for licensing or approval until after expiration of 1 year from the date of such withdrawal.

(Amended: 4/73; 12/82; 9/88.)

4.150 Notice of hearing. Notice by letter will be given by the board to all nonrestricted applicants of the time and place when their application for a gaming license will come before the board and the commission for consideration. Such applicants are expected to attend the meetings of the board and the commission. They may be represented at the meetings by the attorneys or agents who have complied with the requirements of Regulation 10. The commission will notify the applicant in writing of the disposition of his application.

(Adopted: 6/67.)

4.160 Recommendation and order.

1. After completion of its investigation and proceedings respecting an application, the board will issue an order recommending the approval or denial of the application. If the order recommends that an application be denied, the order will be accompanied by written reasons upon which the order is based. All such orders and reasons will be made public, and no recommendation will be secret.

2. A tie vote by the board is neither a recommendation for denial nor approval. Where a tie vote occurs, the matter may be considered by the commission without a recommendation from the board, and the commission may approve the application by a majority vote.
(Amended: 6/67; 12/82.)

4.170 Application after denial. Any person whose application has been denied is not eligible to apply again for licensing or approval until after expiration of 1 year from the date of such denial, unless the commission advises that the denial is without prejudice as to delay in reapplication.
(Amended: 6/67; 9/73; 12/82.)

4.175 (Repealed: 10/03.)

4.180 Seasonal operations. In the case of any operation determined by the commission to be on a seasonal basis, the commission may issue a provisional license upon execution of a sufficient penal bond, conditioned upon the payment for such provisional license of fees in arrears based upon the gross revenue of such applicant for each quarter or partial quarter operated during such seasonal period.
(Adopted: 6/69.)

4.185 Requests for administrative approval. As used in this section and sections 4.190 to 4.195:

1. "Administrative approval" means the authority conferred upon the board chairman or commission chairman by any regulation of the commission, or by a license condition, to grant or deny, in their individual discretion, a licensee's request for approval of a proposed action or transaction.

2. "Administrative approval decision" means the final action, decision, order, or disposition by the board chairman or the commission chairman of a request for an administrative approval.

3. "Board chairman" means the chairman of the state gaming control board or his designee.

4. "Commission chairman" means the chairman of the Nevada gaming commission or his designee.

(Adopted: 8/90.)

4.190 Review of administrative approval decisions.

1. Any licensee affected by an administrative approval decision made by the board chairman may submit the matter to the board for review.

2. A request for review of the administrative approval decision must be submitted within 20 days after the date of receipt of a written notice by the board chairman of his administrative approval decision and must contain:

(a) A statement of the facts relevant to the review of the administrative approval decision;

(b) A statement of the provisions of the Nevada Gaming Control Act, the regulations of the commission, and any other local authority applicable to the review of the administrative approval decision;

(c) A statement of the arguments that the licensee considers relevant to the review of the administrative approval decision;

(d) A statement of the reasons which justify review of the administrative approval decision; and

(e) Any other evidence considered relevant.

3. A nonrefundable fee of \$250.00 must be paid at the time the request for review is submitted.

4. A review of the administrative approval decision will be included on the agenda of the board at the next regular meeting of the board occurring more than 10 working days after receipt by the board of the request for review. A majority of the board may affirm, rescind, or modify such decision.

(Adopted: 8/90.)

4.195 Appeal of administrative approval decisions.

1. Any licensee affected by an administrative approval decision may file a notice of appeal of an administrative approval decision after it has been reviewed pursuant to section 4.190. The licensee may file with the commission a notice of appeal of an administrative approval decision within 20 days of the date upon which the licensee receives written notice of the decision of the board made pursuant to the provisions of section 4.190.

2. An appeal of an administrative approval decision shall be included on the agenda of the next regularly scheduled commission meeting occurring more than 10 working days after the filing of the notice of appeal. Upon good cause shown by a licensee, the commission chairman

may waive the 10-day requirement of this subsection and place an appeal of an administrative approval decision on an earlier commission agenda.

3. In deciding any such appeal, review is limited to the record of the proceedings before the board. The commission for any cause deemed reasonable, may by a majority vote, sustain, modify or reverse the decision of the board, or remand the matter to the board for such further investigation and reconsideration as the commission may order.

4. Judicial review is not available for actions, decisions, and orders of the board and commission made or entered under the provisions of this section.

(Adopted: 8/90. Amended: 9/92.)

4.700 (Repealed: 10/93.)

4.705 (Repealed: 10/93.)

4.710 (Repealed: 10/93.)

4.715 (Repealed: 10/93.)

End – Regulation 4